

1900-039 Chancery Causes: Calvin Pardee vs. Heirs of Joshua Weaver
Lee Co.

Slump, Flanary, Sturgill

CA - Contract Dispute

T - Property

CIRCUIT COURT OF LEE COUNTY, VIRGINIA.

1st September Rules, 1900.

Calvin Pardee, Complainant,

v.

BILL:

The Unknown Heirs of Joshua Weaver, Defendants.

To the Honorable H. A. W. Skeen,

Judge of the Circuit Court of Lee County, Virginia.

Your orator, Calvin Pardee states unto the Court as follows, to-wit:

That, by patent dated November, 30th, 1849, of record in the land office at Richmond, Virginia, in Book 102, page 454, the Commonwealth of Virginia granted unto one Joshua Weaver a certain tract or parcel of land lying in the Crab Orchard, in Lee County, Virginia, containing seventy-six (76) acres, more or less; that thereafter the said Joshua Weaver executed and delivered to one Lewis Sturgill a power of attorney by which the said Joshua Weaver authorized and empowered the said Lewis Sturgill to make sale of the said land, and for him and in his name to convey the same to any one who might purchase the said land; that thereafter the said Lewis Sturgill made sale of the said land to Sebastian S. Slomp and Elkanah Flanary, and, by deed dated September 13th, 1851, of record in the County Court Clerk's Office of Lee County, Virginia, in Deed Book 12, page 34, the said Lewis Sturgill, as agent for the said Joshua Weaver, and Catherine Weaver, the wife of the said Joshua Weaver, granted and conveyed the said land to the said Sebastian S. Slomp and Elkanah Flanary; that by divers mesne conveyances your orator has become the owner of a portion of the said land, claiming and owning the same under the said Sebastian S. Slomp and Elkanah Flanary, the portion thereof owned by

your orator being bounded as follows, to-wit, beginning at a white oak on a line of the Taylor Survey, thence S. 17° W 144 poles to a maple near a hollow, thence N. 60° E. 116 poles to two chestnuts and a dogwood, thence S. 45° E. 60 poles to a stake at the intersection of said patent line and a line in a certain deed from Campbell Slomp and wife to the said Calvin Pardee, dated April 27th, 1900, of record in the County Court Clerk's Office of Lee County, which runs from two dogwoods N. $51\frac{1}{2}^{\circ}$ E. 83.2 poles to a dogwood; thence, with the said last named line, N. $51\frac{1}{2}^{\circ}$ E. about 20 poles to a dogwood, marked "M", on the E. D. Barker line; thence, with another line of the said deed from the said Slomp and wife to the said Pardee, N. $54\frac{1}{2}^{\circ}$ E. 11.88 poles to a maple; thence, with another line of the said deed, N. 2° W. 6 poles to the aforesaid Taylor line, ^{which is} ~~thence~~, the Western line of the Taylor, Fields and Johnston patent of 62000 acres; thence with the said line, N. 54° W. about 160 poles to the beginning;

That, upon an examination of the records, your orator finds that the aforesaid power of attorney from Joshua Weaver to Lewis Sturgill was never recorded, and your orator says that after diligent search he has been unable to find the original thereof, and your orator says that the same has been lost or destroyed;

That the said Joshua Weaver left the State of Virginia a number of years ago, and has since died intestate, leaving heirs whose names and places of residence are unknown to your orator;

That the said Sebastian S. Slomp and Elkanah Flanary fully paid to the said Lewis Sturgill, agent as aforesaid, and to the said Catherine Weaver, the consideration for the said land as recited in the said deed, and they, the said

Sebastian S. Slomp and Elkanah Flanary, and those claiming under them, have been in possession thereof ever since, and your orator is now in possession thereof, but your orator's record title thereto is defective by reason of the loss of the said power of attorney as aforesaid;

Wherefore, your orator prays that the unknown heirs of the said Joshua Weaver be made parties defendant to this bill, and required to answer the same, and answer under oath is hereby waived; that an order of publication be made against the said unknown heirs; and that upon a final hearing, a Commissioner be appointed with directions to convey unto your orator all the right, title and interest of the said unknown heirs in and to the said part of the said patent hereinabove particularly described, and for costs and such other further and general relief as the nature of the case may require, and to equity may seem meet.

B. H. Sewell, and

Bullitt & Kelly,

p. q.

Office for the
Barnes Garden

Weaver
vin
the
ber
law

AFFIDAVIT

The Unknown Heirs of Joshua Weaver, Defendants.

Affiant, Campbell Slemple, states on oath that Joshua Weaver mentioned in the bill in the suit instituted by Calvin Pardee against the unknown heirs of Joshua Weaver, in the Circuit Court of Lee County, Va., died intestate a number of years ago, and that the persons who are his heirs at law are unknown to the said Calvin Pardee and to this affiant.

C. Slump

State of Virginia)
) to-wit:
County of)

I, James H. Hinkle, a notary public in and for the State and County aforesaid, do hereby certify that Campbell Sloop, whose name is signed to the foregoing affidavit, this day appeared before me in my County aforesaid, and made oath that the statements contained in the foregoing affidavit are true as he verily believes.

Given under my hand this 30th day of July,
1900.

Free 25d

Frank Schaefer
Notary Public.

The unknown heirs of
Joshua Weaver deceased

Filed August 4th 1800
A. B. Mursey Clerk

Plaintiffs Costs
Clerk 4.46
Tax 1.50
Atty 15.00
Printer 10.60
\$31.56

Calvin Pardue,
vs { Orig-Bill,

The Unknown Heirs
of Joshua Weaver dec'd

Bullitt & Kelly & B. H. Sewell, p. g.
1900, 1st Sept rules Bill filed
& Order of Publication for
non-residents
" 2nd Sept rules O. P. Compl't
& Cause set for hearing

CIRCUIT COURT OF LEE COUNTY, VIRGINIA.

Calvin Pardee, Complainant.

v.

DECREE

The Unknown Heirs of Joshua Weaver, deceased.

This cause came on this 8th day of November, 1900, to be heard upon the bill of complaint filed herein, and was argued by counsel, and it appearing to the Court that the heirs of Joshua Weaver are unknown, and that an order of publication against the said unknown heirs of Joshua Weaver has been made, published and posted, as required by law, and that none of the said unknown heirs have appeared, answered or pleaded herein, the bill is ~~taken~~ for confessed as to them and each of them, and it is further adjudged, ordered and decreed by the Court that B. H. Sewell, who is hereby appointed a Special Commissioner for the purpose, shall execute and deliver unto the said Calvin Pardee a deed, conveying to him all of the right, title and interest of the said unknown heirs in and to the tract of land in the bill mentioned;

And thereupon, the said B. H. Sewell, Special Commissioner, as aforesaid, filed his report herein, showing that he had executed the said deed, and filed the said deed with his said report for the inspection of the Court; and it is adjudged, ordered and decreed that the said deed and the said report be and they are hereby approved and confirmed, and the said Calvin Pardee is allowed to withdraw the said deed from the papers in this cause; and nothing further appearing to be done in this cause, the same is stricken from the docket, *at the plaintiff's Costs,*

Galvin Pardee,

vs { Deere.

The Unknown Heirs of
Joshua Meacham died

Enter this,

Nov, 8th 1900.

H. C. W. Shum
Entered on Chy
O.B. No 6. P. 439.

CIRCUIT COURT OF LEE COUNTY, VIRGINIA.

Calvin Pardee, Complainant,

v. Report of B. H. Sewell, Special Commissioner.

The Unknown Heirs of Joshua Weaver, deceased, Defendants.

The undersigned, B. H. Sewell, Special Commissioner, appointed by a decree of this day in the above cause, would respectfully report to the Court that he has executed the deed which he was directed to execute by the said decree unto the said Calvin Pardee, and that he herewith files the said deed with his report for the inspection of the Court.

Respectfully submitted

B. H. Sewell,

Special Commissioner.

Calvin Pardee
vs { Cousin's Report
 { of Deed
The Unknown Heirs
of Joshua Weaver & Deed.

Filed in open
Court, this Nov,
8th 1900.

A. B. Munsey
Clerk.

Memorandum for Clerk.

Circuit Court of Lee County, Virginia.

Calvin Pardee, Complainant,

v.

The Unknown Heirs of Joshua Weaver, deceased.

Make order of publication against the unknown heirs of Joshua Weaver; publish the same in the Southwest Virginian, and post notice at the front door of the Court-house.

In the order of publication, state the object of the suit as follows, to-wit: "The object of this suit is to require the unknown heirs of Joshua Weaver to convey unto Calvin Pardee all their right, title and interest in and to a certain tract or parcel of land situate in the Crab Orchard, in Lee County, Virginia, and bounded as follows: Beginning at a white oak on a line of the Taylor Survey, thence S. 17° W. 144 poles to a maple near a hollow, thence N. 60° E. 116 poles to two chestnuts and a dogwood, thence S 45° E. 60 poles to a stake at the intersection of said patent line and a line in a certain deed from Campbell Slemp and wife to the said Calvin Pardee, dated April 27th, 1900, of record in the County Court Clerk's office of Lee County, which runs from two dogwoods N. 51½° E. 83.2 poles to a dogwood; thence, with the said last named line, N. 51½° E. about 20 poles to a dogwood, marked "M", on the E. D. Barker line; thence, with another line of the said deed from the said Slemp and wife to the said Pardee, N. 54½° E. 11.88 poles to a maple; thence, with another line of the said deed, N. 2° W. ^{about} 6 poles to the aforesaid Taylor line; thence, with the Western line of the Taylor Fields and Johnston Patent of 62000 Acres, N. 54° W. about 160 poles to the beginning.

In the Clerk's Office of the Circuit Court of the County of
Lee on the 6th day of August 1900

Calvin Pardee Plaintiff
against

The unknown heirs of Joshua Weaver ^{decd.} Defendant.

The object of this suit is to require the unknown heirs of Joshua Weaver deceased, to convey unto Calvin Pardee all their right title and interest in and to a certain tract or parcel of land situate in the Crab Orchard in Lee County Virginia and bounded as follows: Beginning at a white Oak on a line of the Taylor survey thence S 17° N 144 poles to a maple near a hollow thence N 60° E 116 poles to two chestnuts and a dog wood, thence S 45° E 60 poles to a stake at the intersection of said Patent line and a line in a certain deed from Campbell Slomp wife to the said Calvin Pardee dated April 27th 1900 of record in the county court Clerk's office of Lee County which runs from two dogwoods N 51½° E 83.2 poles to a dogwood; thence with the said last named line N 51½° E about 20 poles to a dogwood, marked "M" on the E. D. Barker line; thence with another line of the said deed from the said Slomp and wife to the said Pardee N 34½° E 11.88 poles to a maple; thence with another line of the said deed N 25° N about 6 poles to the aforesaid Taylor line; thence, with the western line of the Taylor, Fields and Johnston Patent of 62000 acres N 34° N about 160 poles to the Beginning

And an affidavit having been made and filed that the defendant The unknown heirs of Joshua Weaver deceased are not residents of the State of Virginia, it is ordered that they do appear here within fifteen days after due publication hereof, and do what may be necessary to protect their interest in this suit. And it is further ordered that a copy hereof be published once a week for four weeks in the South-West Virginian, and that a copy be posted at the front door of the court-house of this County on the first day of the next term of the County Court.

A copy—Teste:

Bullitt & Kelly & B. H. Sewell P. q.

A. B. Mursey Clerk.

Calvin Pardee

vs.

ORDER OF
PUBLICATION.

The unknown heirs
of Joshua Weaver decd

Virginia Lee County to-wit
I A B Munsey Clerk of the
Circuit Court of Lee County
do hereby certify that I posted
a copy of the within at the
front door of the Court-house
of Lee County on the 1st day
of the August term 1900. of
the County Court. Given
under my hand this the
20th day of Aug 1900.

A B Munsey Clerk

**CERTIFICATE OF
ORDER OF PUBLICATION.**

I, A. M. Goins, Editor of the **SOUTH-
WEST VIRGINIAN**, a weekly newspa-
per published at Jonesville, Lee County,
Va., do hereby certify that the annex-
ed notice was published in said paper
once a week for four successive weeks,
commencing on the 9th day of

August, 1900.

A M Goins, EDITOR.

FEE, \$10.60

VIRGINIA—In the Clerk's Office of the
Circuit Court of the County of Lee on
the 6th day of August, 1900.

CALVIN PARDEE, Plaintiff,
against

The Unknown Heirs of Joshua
Weaver, deceased, Defendants.

IN CHANCERY.

"The object of this suit is to require the unknown heirs of Joshua Weaver deceased, to convey unto Calvin Pardee all their right, title and interest in and to a certain tract or parcel of land situated in the Crab Orchard, in Lee County, Virginia, and bounded as follows: Beginning at a white oak on a line of the Taylor survey, thence S 17° W 144 poles to a maple near a hollow, thence N 60° E 116 poles to two Chestnuts and a dogwood, thence S 45° E 60 poles to a Stake at the intersection of said Patent line and a line in a certain deed from Campbell Slemple and wife to the said Calvin Pardee dated April 27th, 1900, of record in the County Court Clerk's Office of Lee County, which runs from two dogwoods, N 51½° E 83.2 poles to a dogwood; thence with the said last named line N 51½° E about 20 poles to a dogwood marked "M," on the E. D. Barker line; thence with another line of the said deed from the said Slemple and wife to the said Pardee, N 54½° E 11.88 poles to a maple; thence with another line of the said deed, N 2° W about 6 poles to the aforesaid Taylor line; thence with the western line of the Taylor, Fields and Johnston Patent of 62,000 acres N 54° W about 160 poles to the beginning."

And an affidavit having been made and filed that the defendants, The Heirs of Joshua Weaver deceased, are unknown, it is ordered that they do appear here within fifteen days after due publication hereof, and do what may be necessary to protect their interest in this suit. And it is further ordered that a copy hereof be published once a week for four weeks in the South-west Virginian, and that a copy be posted at the front door of the court-house of this county on the first day of the next term of the county court. A copy-Teste:

A. B. MUNSEY, Clerk.

Bullitt & Kelly and B. H. Sewell, p. q.

8-9-00—4t.

ORDER OF PUBLICATION.

Calvin Pardee

VS.

IN CHANCERY.

The Unknown Heirs of
Joshua Weaver, dec'd.

FEE. \$10.60. _____